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REMARKS

Applicant respectfully traverses the above referenced Office Action. In summary, the Examiner has indicated the claims allowable over the art of record, then rejected the claims on that same art. Furthermore, subject matter acknowledged as being originally disclosed by the Examiner is now being labeled as "new matter." The Office Action is quite contradictory, ambiguous and factually incorrect.

With respect to the merits of the prior art rejections based on 35 USC 102 and 103, Applicant's previous remarks are herein incorporated by reference. Furthermore, the Examiner explicitly states that the **"claims of record were successfully amended to overcome the art of record, hence a new grounds [sic] of rejection is established for the pending claims."** No new art based rejections were provided and substantially the same art based rejections that were "successfully overcome" are repeated in the Office Action. Applicant respectfully asserts the claims are allowable and the erroneous presentation of this rejection should be withdrawn.

With respect to the rejection under 35 USC 112, first paragraph as well as the objection to the previous amendment based upon 35 USC 132, Applicant respectfully asserts that both are without merit.

Applicant respectfully reminds the Examiner that originally filed claims are a part of the specification; thus to assert that original claim language from a dependent claim that is amended into another claim cannot constitute new matter and by definition cannot be without support in the original disclosure. The Examiner seems to be aware of these original claims by referring to them at page three of the Office Action (the "original application discusses . . . in claim 4 and 5). Applicant respectfully points out that original claim 3 also includes relevant language now referred to, erroneously, as "new matter."

The Examiner further states that the only located source for support of this subject matter (besides from the same language recited in the original claims) is at page 4, lines 23-31.

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Applicant respectfully directs the Examiner's attention to the following portions of the original specification.

Page 4, lines 5-7

Page 5, lines 7-9

Page 8, lines 7-9

Page 15, lines 25-29

Page 16, lines 23-26

Page 16, line 31- Page 17 line 6

Page 17, lines 11-13

Page 17, lines 23-31

Page 18, lines 1-12

Whatever concerns the Examiner may have about particular drawings, the original specification provides the requisite support in numerous locations.

The rejection and objection regarding new matter is baseless and inaccurate and should be withdrawn. To the extent the Examiner was ignoring the amended claims due to such assumptions (though not indicating that such was the basis for any action taken), Applicant respectfully requests appropriate correction.

As previously indicated, the omission of FIGS 8a-8C was inadvertent and Applicant attempted to submit these figures with an earlier response. Applicant is resubmitting a full set of the figures from the priority document for inclusion in the present application; as such, no new matter is being introduced.


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Applicant respectfully asserts and the Examiner appears to agree that the previously amended claims are allowable over the art of record. The previous amendments have extensive support in the original specification, including the original claim and new matter was not introduced. As such, the application is in condition for allowance and notice of the same is respectfully requested.

Respectfully submitted,

9/2/04

Date



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